

Appl. No. 10/725,248
Docket No. P145
Amdt. dated November 5, 2009
Reply to Office Action mailed on June 5, 2009
Customer No. 27752

REMARKS

Claim Status

Claims 1, 7, 9-12, 14, and 20-56 are pending in the present application.

New claims 54-56 have been added. Support for these new claims can be found throughout the application but particularly on page 5 of the application as filed.

Claims 1 and 14 have been amended. Claims 13 and 24-53 have been previously withdrawn. These amendments are made without prejudice to filing in a continuing application.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Rejection Under 35 U.S.C. § 112

Claims 1, 2, 7, 9-12, 14, and 21-23 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants respectfully traverse this rejection. However, in order to advance prosecution, Applicants have amended independent claims 1 and 14. Independent claims 1 and 14 now recite, inter alia, an edible companion animal composition, wherein the composition comprises a gravy. As now amended, Applicants respectfully submit that the claims now even more fully particularly point out and claim the subject matter which the Applicants regard as the invention. Applicants submit that one of skill, upon reading the written description, would readily understand the language of the claims. Applicants respectfully request reconsideration and withdrawal of the rejection.

Rejection Under 35 U.S.C. § 102 Over Cheuk

Claims 1, 7, 9-12, 14, and 21-23 have been rejected under 35 U.S.C. § 102 as being anticipated by Cheuk, et al. (US Publication No. 2003/0099759) ("Cheuk"). Applicants respectfully traverse this rejection. However, to advance prosecution, and without prejudice, Applicants have amended claims 1 and 14 to even more fully define and distinguish the claims of the present application. For the reasons that follow, Applicants respectfully request reconsideration.

As now amended, independent claims 1 and 14 recite, inter alia, an edible companion animal composition comprising from about 1% to about 10% of total fermentable fiber, by weight of the composition, wherein the composition comprises a gravy; wherein the composition comprises at least 80% water; and wherein the companion animal is selected from the group

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consisting of a domestic dog, cat, rabbit, ferret, horse, and cow. Thus, the composition now comprises at least 80% water to form an edible gravy composition. Cheuk does not disclose, teach, or suggest a gravy composition comprising at least 80% water. Cheuk discloses a product that is a solid mass with recognizable discrete meat particles with a moisturized appearance. See Paragraph 49. Additionally, Cheuk discloses water contents of some of its components, and as best understood by Applicants, the resulting product does not have a water content of at least 80%. Moreover, Cheuk discloses, in the Abstract,

[a] canine pet food composition comprising a meat based material having an essentially solid mass assuming the shape of the container in which it is packed, said pet food having meat particles with a moisturized appearance and visually recognizable discrete food particles upon slicing the pet food mass after departure from the solid container.

Thus, as best understood by Applicants, Cheuk's disclosure of its pet food composition does not disclose, teach, or suggest a gravy composition comprising at least 80% water, as recited in amended claims 1 and 14 of the present application. Thus, as best understood by Applicants, Cheuk fails to teach each and every element of the claims and therefore cannot be said to anticipate the claims. Applicants respectfully request reconsideration and withdrawal of the rejection.

Rejection Under 35 U.S.C. § 103(a) Over Farag in view of Food, 2705 and 66

Claims 1, 2, 7-9, 14, 15, and 18-21 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Farag in view of <http://en.wikipedia.org/wiki/Food> ("Food"), http://web.archive.org/web/*/http://www.peteducation.com/article.cfm?cls=1&cat=1399&articleid=2705 ("2705") and <http://dictionary.reference.com/search?q=companion&r=66> ("66"). Applicants respectfully traverse this rejection. However, as above, independent claims 1 and 14 have been amended to advance prosecution, without prejudice, and to even more fully define and distinguish the claims of the present application. For the reasons that follow, Applicants respectfully request reconsideration.

As now amended, independent claims 1 and 14 recite, inter alia, an edible companion animal composition comprising from about 1% to about 10% of total fermentable fiber, by weight of the composition, wherein the composition comprises a gravy; wherein the composition comprises at least 80% water; and wherein the companion animal is selected from the group

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consisting of a domestic dog, cat, rabbit, ferret, horse, and cow. Thus, the composition now comprises at least 80% water to form an edible gravy composition. The composition is a companion animal composition, wherein the companion animal is selected from the group consisting of a domestic dog, cat, rabbit, ferret, horse, and cow.

Farag, Food, 2705 and 66, either alone or in combination, fail to teach a companion animal gravy composition, wherein the companion animal is selected from the group consisting of a domestic dog, cat, rabbit, ferret, horse, and cow. Additionally, Farag, Food, 2705 and 66, either alone or in combination, fail to teach a companion animal gravy composition, wherein the composition comprises at least 80% water. For at least these reasons, Applicants respectfully request reconsideration and withdrawal of the rejection.

New Claims

New claims 54-56 have been added. Independent claim 54 recites an edible companion animal composition comprising from about 1% to about 10% of total fermentable fiber, by weight of the composition, wherein the composition comprises a gravy; wherein the composition comprises at least 80% water; wherein the fermentable fiber comprises fructooligosaccharide; and wherein the companion animal is selected from the group consisting of a domestic dog, cat, rabbit, ferret, horse, and cow. Thus, it recites FOS as the fermentable fiber, comprises at least 80% water, and is for a domestic dog, cat, rabbit, ferret, horse, and cow. Dependent claim 55 adds a further fiber to the composition of independent claim 54, and dependent claim 56 recites that the FOS is provided by chicory root. Consideration of these new claims is respectfully requested.

CONCLUSION

This Response represents an earnest effort to place the present application in proper form and to distinguish the invention as claimed from the applied references. In view of the foregoing, reconsideration of this application and allowance of the pending claims are respectfully requested.

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